

REMARKS

In the Office Action mailed July 20, 2007, the Examiner rejected claims 33-36 and 40-52; and claims 37-39 are withdrawn from consideration. After entry of this amendment, claims 33-36, 40-48, and 52-58 will be pending with claims 53-58 newly added. Applicants have cancelled claims 37-39 and 49-51. Support for the new claims may be found in the original claims, throughout the specification, and within the scope of the elected claims from the restriction requirement. No new matter has been added.

The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

I. Restriction Requirement

The Office Action withdrew claims 37-39. Applicants maintain their traverse of the basis for the Election/Restriction requirement for the previous reasons provided.

II. Drawing Objection under 37 CFR 1.121(d)

The Office Action objected to the drawings. Applicants have amended the drawing. In view of Applicant's replacement drawings, the Examiner's objection is believed to be rendered moot.

III. Specification Objection due to Informalities

The Office Action objected to the use of the trademark/trade name Fecralloy®. The specification has been amended to overcome the objection and no new matter has been added.

IV. Claim Rejections under 35 USC § 112

The Office Action objected to claims 40, 45, and 50 suggesting that the claims are indefinite. Without acquiescing in this suggestion, Applicants have amended the language where necessary to overcome the rejection.

V. Claim Rejections under 35 USC § 103(a)

The Office Action rejected claims 33-36, 40, and 41 of the present invention under 35 USC 103(a) as being unpatentable over Weaver (US 3,625,489) in view of Goodhart et al. (US 6,659,684). Additionally, the Office Action rejected claims 42-52 of the present invention under 35 USC 103(a) as being unpatentable over Weaver and Goodhart et al. (US 6,659,684) in view of Sivells et al (US 6,279,838). Furthermore, the Office Action rejected claims 36, 44, 50, and 51 of the present invention under 35 USC 103(a) as being unpatentable over Weaver/Goodhart et al. or Weaver/Goodhart et al./Sivells et al. These rejections are respectfully traversed. Without acquiescing to these formulated rejections, claims 33-36, 40-48, and 52-58 have been amended rendering these rejections moot.

VI. NEW CLAIMS

Applicants have added new claims 53-58 and believe that the language of claims 53-58 in combination with the language of the claims upon which they depend is neither taught nor suggested by the references of record. Claims 53-58 of the present invention are directed to include one or more of the following features: a control system located on the at least one heater for independent turning on and turning off thereof; at least one heater that is configured to heat a surface to be repaired having a depth less than about 100mm; at least one heater that is configured to heat a surface to be repaired to a temperature less than about 200°C, a sensor for sensing the distance between the at least one heater and a surface to be repaired so that the heating can be controlled by the proximity of the at least one heater to the surface to be repaired; at least one infrared heater that is mounted to the rear portion of the vehicle for pivotal articulation relative to an adjoining structure of the vehicle for moving the at least one heater towards and away from the surface to be repaired, includes a storage compartment, a built in tank, and a compaction roller, or a combination of both; and any combination thereof.

By the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

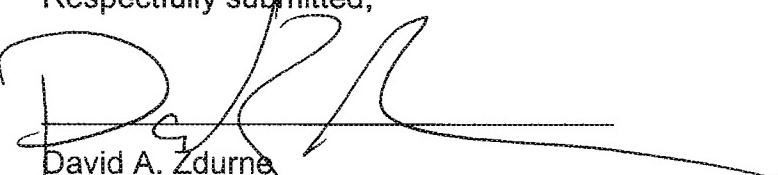
CONCLUSIONS

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge our Deposit Account No. 50-1097 for any fee which may be due.

Respectfully submitted,

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